

**REMARKS:**

**Summary of Claim Amendments and Pending Claims**

Claims 48-59 are pending and at issue. No new matter is added.

**Withdrawn Claim Rejection - The Double Patenting Rejection**

Applicants wish to thank Examiner for withdrawing the previous rejection of claims 48-55 and 57-59 under the judicially created doctrine of obviousness-type double patenting.

**Withdrawn Claim Rejection – 35 U.S.C. §103**

Applicants wish to thank Examiner for withdrawing the previous rejection of claims 48 and 49 under 35 U.S.C. 103(a).

**The 35 U.S.C. §102(b) Rejection**

The Office Action rejected claims 48 and 49 under 35 U.S.C. §102(b) as anticipated by Habener (U.S. Patent 5,120, 712, publication date: June 9, 1992). Habener is stated to teach a GLP-1 derivative having the formula  $H_2N-X-CO-R^1$  where X is GLP-1 (7-37) and  $R^1$  may inter alia be  $NR^2R^3$  where  $R^2$  and  $R^3$  may each be hydrogen or a lower ( $C_1$ - $C_6$ ) alkyl group. Thus, the Examiner concluded that since the  $NR^2R^3$  group which is attached to the C-terminus amino acid of GLP-1 (7-37) in Habener can contain 12 carbons (where  $R^2$  and  $R^3$  are each  $C_6$ ), the GLP-1 derivative of Habener meets the criteria of claims 48 and 49.

Applicants traverse this rejection.

Pending claims 48 and 49 recite that “a lipophilic substituent having 8 to 40 (or 12 to 35 in claim 49) carbon atoms .... is .... attached to the C-terminal amino acid of GLP-1 or the analog thereof...” (emphasis added). Thus, a single lipophilic substituent of 8-40 or 12-35 carbon atoms is attached to the C-terminal amino acid in pending claims 48 and 49 respectively.

By comparison, the disclosure in the cited Habener patent at col. 4, lines 1-25 that the C-terminus of the GLP-1 can be  $NR^2R^3$  where  $R^2$  and  $R^3$  can each be  $C_1$ - $C_6$  alkyl does **not** describe a single lipophilic substituent of 12 carbons attached to the C-terminus. Rather Habener describes the attachment of two lipophilic substituents, each of up to 6 carbon atoms in length, to the C-terminal amino acid of GLP-1. Thus, Habener does not anticipate claims 48 and 49 and withdrawal of this rejection is respectfully requested.

### **Conclusion**

In view of the above, Applicants submit that the application is now in condition for allowance and issue and respectfully request early action to that end. Applicants believe that no additional fees are due. However, should any fees be due, the Commissioner is hereby authorized to charge any fees in connection with this application and to credit any overpayments to Deposit Account No. 14-1447. The undersigned invites the Examiner to contact him by telephone if there are any questions concerning this amendment or application.

Respectfully submitted,

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**/Richard W. Bork, Reg. No. 36,459/**

Richard W. Bork, Reg. No. 36,459

Novo Nordisk Inc.

Customer Number 23650

(609) 987-5800